

201500421

Gary Byrd

A man who had been stabbed nine times was arrested after receiving brief treatment at the hospital and some painkillers. While he was in the PSA 4 stationhouse, he asked PO Gary Byrd for medical treatment for his injuries. PO Byrd properly notified the desk sergeant, whose responsibility it is to obtain medical treatment for prisoners. The desk sergeant told the man that taking him back to the hospital would delay his arrest processing and instead assigned two officers to take the man to central booking. The man asked these officers to obtain medical treatment for him and they refused, instead taking him to central booking. He was provided medical treatment hours after being booked in the Manhattan Detention Center.

In his statement, PO Byrd stated that he had no interaction with the man at the precinct, and only saw him at Central Booking, a fact that was contradicted by his own memo book among other evidence.

The CCRB found that PO Byrd acted properly in notifying the desk sergeant that the man sought medical treatment, and therefore the CCRB found that the desk sergeant had abused his authority by failing to obtain medical treatment. But because PO Byrd made false statements regarding his role in the incident, and did not even acknowledge that he interacted with the man at all, it found that he made a false statement in his interview.

The NYPD has not punished any officer for this incident.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #4	CCRB Case #: 201500421	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 01/01/2015 , Fri, 01/02/2015 4:00 PM, Sat, 01/10/2015	Location of Incident: [REDACTED]	Precinct: 09	18 Mo. SOL 07/02/2016	EO SOL 7/2/2016	
Date/Time CV Reported Wed, 01/21/2015 11:28 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 01/21/2015 11:28 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Anthony Peters	03997	§ 87(2)(b)	PSA 4
2. POM Gary Byrd	29354	§ 87(2)(b)	PSA 4
3. POM Jorge Garcia	00284	§ 87(2)(b)	PSA 4
4. POM Alexis Ponce	07910	§ 87(2)(b)	PSA 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Taormina	13435	§ 87(2)(b)	PSA 4

Officer(s)	Allegation	Investigator Recommendation
A . SGT Anthony Peters	Abuse of Authority: Inside of the PSA 4 stationhouse, Sgt. Anthony Peters did not obtain medical treatment for § 87(2)(b) [REDACTED].	A . § 87(2)(g) [REDACTED]
B . POM Alexis Ponce	Abuse of Authority: En route to Manhattan Central Booking, PO Alexis Ponce did not obtain medical treatment for § 87(2)(b) [REDACTED].	B . § 87(2)(g) [REDACTED]
C . POM Jorge Garcia	Abuse of Authority: En route to Manhattan Central Booking, PO Jorge Garcia did not obtain medical treatment for § 87(2)(b) [REDACTED].	C . § 87(2)(g) [REDACTED]
D . POM Gary Byrd	Other: PO Byrd intentionally made a false official statement to the CCRB in violation of Patrol Guide Procedure 203-08.	D . § 87(2)(g) [REDACTED]

Case Summary

On January 21, 2015, § 87(2)(b) filed this complaint with the CCRB in-person.

On § 87(2)(b), at approximately § 87(2)(b) § 87(2)(b) was transported to § 87(2)(b) in an ambulance after being involved in an altercation in which he was stabbed nine times. § 87(2)(b) was given Percocet for the pain caused by his injuries. Approximately one hour after he arrived at the hospital, § 87(2)(b) was placed under arrest for assault with a weapon by PO Michael Taormina.

On January 2, 2015, at approximately 3:00 p.m., § 87(2)(b) was transported directly from § 87(2)(b) to the PSA 4 stationhouse. § 87(2)(b) was processed, and then placed in a holding cell. During this time, PO Gary Byrd was watching over § 87(2)(b). Approximately one hour after § 87(2)(b) arrived at the stationhouse, the effects of the painkillers he had been given began to wear off, and § 87(2)(b)'s injuries started causing him severe pain. He asked PO Byrd to take him back to the hospital, and PO Byrd went to find Sgt. Peters, who was the desk officer at that time. Both officers returned to § 87(2)(b) who asked again to be taken to a hospital. Sgt. Peters told § 87(2)(b) he was going to be taken to Central Booking first, and he could have further medical treatment after being arraigned. § 87(2)(b) insisted that he needed medical treatment immediately, and Sgt. Peters walked away without requesting medical treatment for § 87(2)(b) (**Allegation A**).

§ 87(2)(b) was taken to Central Booking by PO Alexis Ponce and PO Jorge Garcia. While he was in their patrol car, § 87(2)(b) asked PO Ponce and PO Garcia several times for medical treatment, but neither ever responded, and neither obtained medical treatment for § 87(2)(b) (**Allegations B and C**). PO Byrd followed the officers and § 87(2)(b) in a separate vehicle, and met them at Central Booking for § 87(2)(b)'s arraignment. Afterwards, § 87(2)(b) was brought to Manhattan Detention Center, where he was able to see a doctor and receive treatment.

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation due to § 87(2)(b)'s arrest.
- § 87(2)(b) (01 Board Review).
- The criminal case related to this incident is still open. § 87(2)(b)'s next court date is on June 25, 2015 (02 Board Review).
- A notice of claim request was submitted to the Comptroller's office on June 4, 2015, and returned with negative results on June 9, 2015.

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s second CCRB complaint. § 87(2)(b)
- Sgt. Peters has been a member of service for fourteen years. There are no substantiated allegations on his record. § 87(2)(g)
- PO Garcia has been a member of service for nine years. There are no substantiated allegations on his record. § 87(2)(g)
- PO Ponce has been a member of service for seven years. There are no substantiated allegations on his record. § 87(2)(g)
- PO Byrd has been a member of service for 21 years. He has no previous false official statements on his record.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) identified Sgt. Peters by name and shield number. He also provided a description that matched Sgt. Peters. According to Sgt. Peters' memo book from the date of the incident, he was the desk sergeant in the PSA 4 stationhouse at the time that § 87(2)(b) was being held in the stationhouse (03 Board Review).

Allegations not pleaded

- A refusal to obtain medical treatment was not pleaded against PO Byrd, as Section 210-04(3) of the Patrol Guide states that if a prisoner requires medical treatment during arrest processing, the desk officer is required to call an ambulance and ensure the prisoner is removed to a hospital (04 Board Review). PO Byrd's first action upon being informed by § 87(2)(b) that he was in need of medical treatment was to inform the desk officer, Sgt. Peters. The failure to obtain medical treatment for § 87(2)(b) at this instance of the incident therefore falls on Sgt. Peters, and the allegation is not pleaded against PO Byrd.

Allegation A – Abuse of Authority: Inside of the PSA 4 stationhouse, Sgt. Anthony Peters did not obtain medical treatment for § 87(2)(b)

The investigation credited the following. § 87(2)(b) while being held in a cell in the PSA 4 stationhouse on January 2, 2015, asked PO Byrd for medical treatment. PO Byrd went to find Sgt. Peters, the desk sergeant at the time, and the two officers returned to § 87(2)(b)'s cell together. Sgt. Peters told § 87(2)(b) that taking him back to the hospital would prolong his arrest processing. He asked § 87(2)(b) if he really needed to go to the hospital, as they were almost done processing his arrest, and informed § 87(2)(b) that he could receive medical attention later on. § 87(2)(b) told Sgt. Peters that it was an emergency and he needed to be taken to a hospital immediately. However, Sgt. Peters walked away without saying anything further (05 Board Review).

It is undisputed that § 87(2)(b) was stabbed nine times on the morning of § 87(2)(b). He was subsequently taken to § 87(2)(b) where he was placed under arrest by PO Michael Taormina of PSA 4. § 87(2)(b) was prescribed Percocet at the hospital to alleviate the pain caused by his injuries. On January 2, 2015, at 2:00 p.m., § 87(2)(b) was transported to the PSA 4 stationhouse for arrest processing. § 87(2)(b) was taken to Manhattan Central Booking at 4:05 p.m. for his arraignment. No ambulance was ever called for § 87(2)(b) nor did he receive any medical treatment while in the custody of the NYPD on that date. After § 87(2)(b)'s arraignment, he was taken to Manhattan Detention Center (MDC), where he saw a doctor within several hours of arriving. § 87(2)(b) received treatment for his injuries at MDC the following day as well, and on § 87(2)(b), he received further treatment at § 87(2)(b).

- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(b) received medical treatment almost immediately upon arriving at MDC after his arraignment, § 87(2)(g)

§ 87(2)(g)

- The officers whom § 87(2)(b) filed the complaint against had nothing to do with § 87(2)(b)'s arrest. § 87(2)(b) did not make any allegations against his arresting officer, PO Taormina, nor did he protest the arrest in his CCRB statement. § 87(2)(b) did not make any other allegations against PO Byrd or Sgt. Peters either. § 87(2)(g)

- § 87(2)(g) He was interviewed at the CCRB on January 21, 2015, and provided phone statements on January 30, 2015, and on April 13, 2015. § 87(2)(g)

- § 87(2)(g)

- § 87(2)(b) returned to the PSA 4 stationhouse on two separate dates after this incident in order to obtain the names and shield numbers of PO Byrd and Sgt. Peters. § 87(2)(g)

§ 87(2)(g) He denied having any interaction with § 87(2)(b) at the PSA 4 stationhouse on January 2, 2015 (06 Board Review), § 87(2)(g) PO Ponce and PO Garcia (the officers who transported § 87(2)(b) to Central Booking) both affirmed that they were inside of the stationhouse with PO Byrd and § 87(2)(b) prior to transporting him to his arraignment (07 Board Review and 08 Board Review, respectively). Furthermore, the command log from January 2, 2015 (09 Board Review), and PO Byrd's own memo book (10 Board Review) both document that § 87(2)(b) was in PO Byrd's custody at the stationhouse on that date.

§ 87(2)(g)

§ 87(2)(g) He merely denied interacting with § 87(2)(b) or PO Byrd in the stationhouse on January 2, 2015, and claimed to have no knowledge of § 87(2)(b)'s request for medical attention (11 Board Review).

§ 87(2)(g)

According to Patrol Guide procedure 210-04(3), if a prisoner requires medical treatment during arrest processing, the desk officer is required to call an ambulance for him or her (04 Board Review).

§ 87(2)(g)

Allegation B – Abuse of Authority: En route to Manhattan Central Booking, PO Alexis Ponce did not obtain medical treatment for § 87(2)(b)

Allegation C – Abuse of Authority: En route to Manhattan Central Booking, PO Jorge Garcia did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that, while being driven to Central Booking by PO Ponce and PO Garcia, he asked both officers several times for medical treatment, and neither officer ever responded. PO Ponce denied that § 87(2)(b) requested medical treatment from him, but recalled almost no other details of the transport, including § 87(2)(b)'s demeanor, physical condition, or if he complained of any injuries. PO Garcia did not recall if § 87(2)(b) requested medical treatment, and also recalled few details of the transport.

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According to Patrol Guide Procedure 210-04(1), if a prisoner requires medical treatment while in NYPD custody, an officer must request an ambulance and accompany the prisoner to the hospital (04 Board Review).

§ 87(2)(g)
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Allegation D – Other: PO Gary Byrd intentionally made a false official statement to the CCRB in violation of NYPD Patrol Guide Procedure 203-08.

As discussed in **Allegation A**, the investigation determined that PO Byrd's denial of having any interaction with § 87(2)(b) inside of the PSA 4 stationhouse was patently false. § 87(2)(g)

Furthermore, both PO Ponce and PO Garcia affirmed that they were inside of the PSA 4 stationhouse with § 87(2)(b) and PO Byrd prior to transporting § 87(2)(b) to Central Booking. Finally, the command log and PO Byrd's own memo book both confirm that PO Byrd was involved in the transportation of § 87(2)(b) from the PSA 4 stationhouse to Central Booking.

PO Byrd claimed that his only interaction with § 87(2)(b) on this date was at Central Booking. He stated that he met § 87(2)(b) who was in the custody of PO Ponce and PO Garcia at the time, at that location, but that he did not know where § 87(2)(b) had been transported from. § 87(2)(g)

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Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
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Reviewer: _____
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